



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड १६]

शिमला, शनिवार, १६ मार्च, १९६८/२६ फाल्गुन, १८८६

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१६ मार्च, १९६८/२६ फाल्गुन, १८८६ को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुई :-

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 3-1/68-Elec., dated the 11th March, 1968.	Election Department	Republication of Election Commission, India's Notification No. 318/68 (1), dated 11th March, 1968 in respect of biennial elections to the Council of States.
No. 3-1/68-Elec., dated the 11th March, 1968.	-do-	Republication of Election Commission, India's Notification No. 318/68 (2), dated 11th March, 1968 in respect of biennial elections to the Council of States.
No. 3-1/68-Elec., dated the 11th March, 1968.	-do-	Republication of Election Commission, India's Notification No. 318/68 (3), dated 11th March, 1968 in respect of biennial elections to the Council of States.
No. 6-58/67-Elec., dated the 19th February, 1968.	-do-	Republication of Election Commission, India's Notification No. 56/67-VI, dated 2nd February, 1968.
No. 1-17/68-VS., dated the 13th March, 1968.	Vidhan Sabha Secretariat	Publication of "The Himachal Pradesh Appropriation Bill, 1968 (Bill No. 10 of 1968)" as introduced on the 13th March, 1968.

भाग १—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के उप-राज्यपाल और हिमाचल बेंच आफ़ देहली हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश सरकार
PUBLIC WORKS DEPARTMENT
NOTIFICATION

Simla-1, the 2nd February, 1968

No. PW (R)-56-63 (Req)-SDIII/67-I-1091-94A.—
Whereas it appears to the Lieutenant Governor, Himachal Pradesh that land is likely to be required to be taken by

the Himachal Pradesh Government at the public expense for a public purpose, namely for the construction of M.L.A.'s Hostel, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

■ This Notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Lieutenant Governor, Himachal Pradesh, is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this Notification, file an objection in writing before the Collector of Land Acquisition, Mahasu district, Himachal Pradesh Public Works Department at Kasumpti, Simla-9.

SPECIFICATION

District: SIMLA

Sub-Tehsil: SIMLA

Locality	Khasra No.	Area	
		Sq. yds.	Sq. ft.
Station ward Chhota	5/1	791	2
Simla (Matropole	5/2	143	7
Hotel).	5/3/5	154	6
	5/4	119	14
	5/4/2	400	7
	482/425/5	6366	2
Total	..	7985	4

V. R. VAISH,
Secretary.

TRANSPORT DEPARTMENT NOTIFICATION

Simla-1, the 11th March, 1968

No. 4-4/67-Tpt.—Whereas the State Transport Undertaking, namely the Mandi-Kulu Road Transport Corporation, Mandi is of the opinion that for the purposes

of providing efficient, adequate, economical and properly co-ordinated road transport services, it is necessary in the public interest that road transport services for carrying passengers as well as goods on the routes given below should be operated by the said State Transport Undertaking.

Now, therefore, the following draft scheme prepared by the State Transport Undertaking in pursuance of the provisions of section 68-C of the Motor Vehicles Act, 1939 is hereby published for information of the persons/undertakings likely to be affected thereby.

The draft scheme will be taken into consideration by the Government on or after the expiry of thirty days from the date of publication of this scheme in the Official Gazette together with any objection or suggestion which may be received by the Secretary to the Government of Himachal Pradesh, Transport Department, Simla from the persons/undertakings in respect of the draft scheme before the expiry of the period so specified.

DRAFT SCHEME

The road transport services shall be operated by the Mandi-Kulu Road Transport Corporation solely and by the complete exclusion of all other persons or undertakings, on the following routes to the extent noted below:
Name of the route.—(1) Manali-Marhi-Rohtang.
(2) All other roads bifurcating from Kulu-Manali road giving connection to Lahaul and Spiti areas already constructed or to be constructed.

No. of trips.—According to requirements.

No. of permits.—According to requirements.

Purpose and extent.—To provide facilities for transport of passengers and goods to the trading community and the public, to the complete exclusion of private operators whether stage carriage, public carriers or taxi cab on the whole or portion of the route.

J. M. LALWANI,
Secretary.

भाग २—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं
इत्यादि

शून्य

भाग ३—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश
के उप-राज्यपाल, हिमाचल बैंक आफ देहली हाई कोर्ट, फाइनेंगल कमिशनर तथा कमिशनर आफ
इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

EXCISE AND TAXATION DEPARTMENT NOTIFICATION

Simla-2, the 8th March, 1968

No. 14-6/67-E&T.—In exercise of the powers conferred upon him by sub-section (2) of section 6 of the Punjab General Sales Tax Act, 1948 as in force in the territory added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), the Lieutenant Governor (Administrator), is pleased to propose the following amendment in Schedule 'B' to the said Act.

DRAFT AMENDMENT

In the said schedule after item 71, the following new item shall be inserted, namely:—

“72. CONDOMS when sold through consumer goods Chammels.”

Notice is hereby given that any person desiring to make any objections or suggestions with respect to the proposed amendment may forward the same to the Excise and Taxation Commissioner, Himachal Pradesh, Simla-2 within three months from the date of the publication of this Notification in the Himachal Pradesh Rajpatra, which will be duly taken into consideration by the competent authority.

By order,
K. R. CHANDEL,
Joint Secretary.

भाग ४—स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटरीकाइड और टाउन परिषद तथा पंचायत विभाग

**PANCHAYATS DEPARTMENT
NOTIFICATION**

Simla-4, the 14th March, 1968

No. 16-5/65-Panch.—In exercise of the powers vested in me under section 12 (3) of the Himachal Pradesh Panchayat Raj Act, 1952 (Act No. 6 of 1953) read with Rule 5 of the Himachal Pradesh Panchayat Rules, 1,

P. C. Sharma, Director of Panchayats, Himachal Pradesh do hereby extend the term of Presidents, Vice-Presidents and members of all such Gram Panchayats, in the areas of Himachal Pradesh in which the said Act is in force, upto 31st December, 1968, whose term is to expire on 31st March, 1968.

P. C. SHARMA,
Director.

भाग ५—वैयक्तिक अधिसूचनाएं और विज्ञापन

**STATE BANK OF PATIALA
NOTICE**

Patiala-1, the 1st March, 1968

SBP No. 13.—The undernoted change in the posting of Bank's staff is hereby notified:—

1. Shri Manjit Singh Kapur, Junior Officer, held

charge of Solan Branch from the close of business on the 13th February to the close of business on the 17th February, 1968 *Vice* Sri Devi Parshad Saxena.

K. SUBRAMANIAN,
General Manager.

भाग ६—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

शून्य

भाग ७—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

**ELECTION DEPARTMENT
NOTIFICATION**

Simla-2, the 7th March, 1968

No. 6-51/67-Elec.—The following Notification of the Election Commission of India, dated the 9th February, 1968/Magha 20, 1889 (Saka) is published:—

**ELECTION COMMISSION OF INDIA
NOTIFICATION**

New Delhi-1, the 9th February, 1968/Magha 20, 1889

No. 82/3 of 67/HP-67.—In pursuance of sub-section 2 (b) of section 116 (c) of the Representation of the People Act, 1951, the Election Commission hereby publishes the Judgement of the Supreme Court of India given on the 15th January, 1968 on the Civil Appeal No. 1112 of 1967 from the Order, dated the 14th July, 1967 of the Delhi High Court, Himachal Bench, Simla.

By order,

A. N. SEN,

Secretary to the Election Commission.

**IN THE SUPREME COURT OF INDIA CIVIL
APPELLATE JURISDICTION**

CIVIL APPEAL NO. 1112 OF 1967

Shri Hira Singh Pal (Appellant).

Versus

Shri Madan Lal (Respondent).

Seal.

JUDGEMENT

Hegde, J.

This appeal is directed against the order of the High Court of Delhi and Himachal Pradesh in Election Petition No. 3 of 1967. That petition related to the election to the Himachal Pradesh Legislative Assembly during the last General Election, from 9-Arki Assembly Constituency.

The only ground taken in the Petition was whether the nomination of the respondent was improperly rejected. The respondent had filed his nomination for the election in question on January 20, 1967. He had filed two nomination papers. The scrutiny took place on January 21, 1967. At the time of the scrutiny, the respondent was not present his nomination papers were rejected by the Returning Officer. The election took place in February, 1967. The two contesting candidates were the appellant and Hari Dass the Congress nominee. The appellant succeeded by a margin of about 8,000 votes. After the results of the election were announced, the respondent filed an Election Petition with which we are now concerned.

The only ground taken in the Election Petition as mentioned earlier was that his nomination papers were improperly rejected. In rejecting the nomination papers of the respondent, the Returning Officer observed as follows:—

“Shri Madan Lal, resident of village Parhech, P.O. Ghanahatti, District Mahasu filed two nomination papers before me on 20th January, 1967 which bear serial Nos. 5 and 6. According to the entry in the nomination paper serial No. 5 Shri Anant Ram, proposer has been shown to be entered at serial No. 383 of 13 of the electoral rolls for 9-Arki Assembly Constituency. From the comparison with the final copy of electoral rolls for this constituency, at serial No. 383 of part 13 the name of Shrimati Phulla wife of Shri Nirjal Singh has been entered. As such this entry in this nomination paper is wrong.

As regards nomination paper bearing serial No. 6 the candidate has shown his name to be entered at serial No. 504 of part 2 of the electoral rolls for 9-Arki Assembly Constituency. From the comparison with the aforesaid entry in the final copy of the electoral rolls at the aforesaid serial No. of the aforesaid part one Shrimati Darshnoo wife of Shri Chanaya Ram has been entered.

Hence this entry in the nomination paper bearing serial No. 6 is incorrect.

At the time of scrutiny neither Shri Madan Lal nor his proposer or election agent nor any one authorised on his behalf was present so that he could be given an opportunity for correcting these entries. This candidate while presenting his nomination papers claimed to the substitute candidate of the Indian National Congress who have put up Shri Hari Dass as their only candidate.

In view of the aforesaid circumstances it cannot be ascertained whether Shri Madan Lal is an elector in any Assembly Constituency of Himachal Pradesh or that his proposer Shri Anant Ram is an elector in the 9-Arki Assembly Constituency. Shri M. R. Gupta, Advocate the person authorised on behalf of Shri Hari Dass was informed to convey to Shri Madan Lal that he can approach me any time up to 3.00 P.M. today for correcting these entries. Shri Madan Lal has not turned up as yet. It is now 15 minutes past 3.00 P.M.

In these circumstances there is no alternative but to reject both these nomination papers as the candidate does not seem to be interested in correcting these entries and filling proper and valid nomination papers. These orders are passed *ex-parte* since Shri Madan Lal has not cared to turn up.

Announced.

21-1-1967.

R. C. GUPTA,
Returning Officer,
9-Arki Assembly Constituency.

The two nominations filed by the respondent are marked as annexures A and B. They read as follows:—

ANNEXURE 'A'

FORM 2-B

(See rule 4)

Nomination paper

Election to the Legislative Assembly of Union territory of Himachal Pradesh (State).

1. Nomination as candidate for election to the Legislative Assembly from the 9-Arki Assembly Constituency.

Candidate's Name—Madan Lal.

His Postal Address—Village Parhech, P.O. Ghana-ki-hatti, District Mahasu (HP).

His name is entered at serial No. 504 of the Electoral Roll for the 9-Arki in Part No. 12, Assembly Constituency.

My name is Anant Ram and it is in Part No. 13 entered at serial No. 380 for the 9-Arki of the Assembly Constituency.

Dated 20-1-1967.

ANANT RAM,
Signature of Proposer.

1. The above mentioned candidate assent to this nomination and hereby declare:—

- (a) that I have completed 49 years of age;
- (b) that I am sponsored at this election by the Indian National Congress Party;
- (c) that the symbols I have chosen are, in order of preference.

- (i) Two bullocks with yoke on (ii) ****
- (iii) ****

A score out this paragraph, if not applicable. Score out the word not applicable.

(To be filled by the Returning Officer)
Serial number of nomination Paper—5.

This nomination was delivered to me at my office at 1.20 P.M. (hours) on 20-1-1967 (date by the candidate.)

Dated 20-1-1967.

R. C. GUPTA,
Returning Officer,
9-Arki Assembly Constituency.

Decision of Returning Officer accepting or rejecting the nomination paper.

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951, and decide as follows:—rejected.

Shri Anant Ram proposer is not entered at Serial No. 380 of part No. 13 of the Electoral Roll of 9-Arki Assembly Constituency. Despite opportunity this entry has not been corrected.

Dated 21-1-1967.

3-15 P.M.

R. C. GUPTA,
Returning Officer,
9-Arki Assembly Constituency.

ANNEXURE 'B'

Form 2-B

(See rule 4)

Nomination Paper

Election to the Legislative Assembly of Himachal Pradesh (State).

I nominate as a candidate for election to the Legislative Assembly from the 9-Arki Assembly Constituency.

Candidate's Name

Madan Lal

His postal Address

Village Parhech, P.O. Ghana-hatti, District Mahasu.

His name is entered at serial No. 504 in part No. 2 of the Electoral Roll for the 9-Arki Assembly Constituency. My name is Hari Nand and it is entered at serial No. 799 in part No. 13 of the Electoral Roll for the 9-Arki Assembly Constituency.

Date 20-1-1967.

HARI NAND,
Signature of Proposer.

1. The above mentioned candidate, assent to this nomination and hereby declare:—

- (a) that I have completed 49 years of age;
- (b) that I am sponsored at this election by the Indian National Congress Party;
- (c) that the symbols I have chosen are in order of preference (i) Two bullocks with yoke on (ii).... and (iii).....

*Score out this paragraph, if not applicable.

**Score out the word not applicable.

(To be filled by the Returning Officer)

Serial No. of nomination paper—6.

This nomination was delivered to me at my office at 1.20 P.M. (hours) on 20-1-1967 (date by the candidate).

R. C. GUPTA,
Returning Officer,
9-Arki Assembly Constituency.

Dated 20-1-1967.

Decision of Returning Officer accepting or rejecting the Nomination paper.

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951 and decide as follows:—Rejected.

The name of the candidate is not entered at serial No. 504 of part No. 2 of Arki Assembly Constituency Electoral Roll: despite opportunity he has not cared to correct the entry.

Date 21-1-1967.

R. C. GUPTA,
Returning Officer,
9-Arki Assembly Constituency.

In the first nomination paper the proposer was one Anant Ram. It was mentioned in the nomination paper that he is the elector shown at serial No. 380 of part 13 of the Electoral Roll of Arki Assembly Constituency. This was clearly a mistake. His name is really found at serial No. 380 of part 23. In the second nomination paper the candidate is shown as the elector at serial No. 504 of part 2 of 9-Arki Assembly Constituency; but really his name is found at serial No. 504 of part 12 of that Constituency. Hence the question is whether the grounds on which the Returning Officer rejected the nomination papers of the respondent were substantial grounds as contemplated by S. 36 of the Representation of the People Act, 1951.

Before we deal with that question, it is necessary to set out few more facts. According to the appellants the respondent was not a genuine candidate; he was a dummy Congress candidate; he never intended to contest the election. There is basis for this contention. The respondent was the General Secretary of the Mahasu District Congress Committee. He never applied for any Congress ticket; his name was considered either by the District Congress Committee or by the Pradesh Congress Committee. He did not give the contribution required to be given by the candidates to the party, nor did he give the security prescribed by the party. The Congress had selected Mr. Hari Dass, one of the then Ministers in the Himachal Pradesh Government for contesting the Constituency in question. His name had been recommended by the District Congress Committee as well as by the Pradesh Congress Committee. It had been accepted by the Parliamentary Board. He had paid the necessary subscription. He had also deposited the prescribed security. It is found from the evidence of the appellants that both Mr. Hari Dass as well as the respondent went together to the Returning Officer for filing their nominations. In fact it is clear from the order of the Returning Officer that the appellants had told him that he was only a covering candidate for Mr. Hari Dass. It may also be noted that the respondent had declared that he was a Congress nominee. He had also asked for the Congress Symbols namely a pair of bullocks. It may further be noted that on the date of the scrutiny, the respondent was absent and there was no body to represent him. The Advocate who represented the Congress Organisation did not object to the rejection of the nomination of the respondent presumably because no one was interested as in his nomination as the nomination of Mr. Hari Dass had been accepted. Possibly he is now challenging the election because his party's candidate has been defeated. At this juncture, we may notice that the respondent did not even apply for a copy of the order of the Returning Officer rejecting his nomination till the election results were announced. He admitted during his cross examination that he had acted as the counting agent of Mr. Hari Dass. It is proved from the evidence of the appellants that he actively canvassed for Mr. Hari Dass.

From the facts and circumstances established in this case

we have no doubt in our mind that the respondent was at the time a genuine candidate. He is merely availing himself of the opportunity of the rejection of his nomination paper for undoing the result of the election.

That, however, it not the end of the matter. All that we have to consider in this appeal is whether the Returning Officer was right in rejecting the nomination of the respondent. As mentioned earlier, the errors found in the nomination papers are purely clerical errors. The Returning Officer had the duty, to scrutinize the nomination papers when they were presented for finding out whether there were any clerical mistakes in the same. Under that provision he was required to find out whether the names of the candidates as well as their proposers and seconders were correctly mentioned in the nomination papers. He was also required to see whether their place in the electoral roll was correctly mentioned in the nomination papers. Evidently the Returning Officer failed in his duty. Further, when he scrutinised the nomination papers on January 21, 1967, he had before him all the required information. It may be that while scrutinising the first nomination paper (marked as No. 5) he had no material before him to find out whether the proposer of the candidate was really an elector in the constituency or not; but when he came to the second nomination paper where the proposer's name as well as his place in the electoral roll is correctly mentioned, it was improper on his part of having rejected that nomination paper. It is true that in that nomination paper, it had been mentioned that the candidate's name is found at serial No. 504 of part 2 of 9-Arki Assembly Constituency, though in fact is found at serial No. 504 in part 12 of that constituency; but from the first nomination paper, the Returning Officer could have easily found out the concerned part of the electoral roll. All the required information was before him. Obviously he rejected the nomination papers for the reasons that the respondent was only a dummy candidate but that was not a matter for him to decide. If he was a dummy candidate there was occasion for him to withdraw his candidature after the scrutiny of the nomination papers. Therefore it is quite clear that the respondent's nomination paper were improperly rejected. Such a rejection was impermissible under section 36 and the same is a ground for setting aside the election under section 100 of the Representation of the People Act.

For the reasons mentioned above, we dismiss this appeal but in the circumstances of the case we direct that the parties shall bear their own costs throughout.

.....
(M. HIDAYATULLAH).

(K. S. HEGDE)

Dated January 15, 1968.

By order,
D. B. LAL,
Chief Electoral Officer.

अनुपूरक

अन्व

